

REMARKS

1. In response to the Office Action mailed May 2, 2006, Applicants respectfully request reconsideration. Claims 1-4, 9-14 and 16-19 were last presented for examination. In the outstanding Office Action, all pending claims were rejected. By the foregoing Amendments, claims 1-4, 10-12, 14 and 17-19 have been amended. Claims 21-26 have been added. No claims have been canceled. Thus, upon entry of this paper, claims 1-4, 9-14, 16-19 and 21-26 will be pending in this application. Of these twenty (20) claims, three (3) claims (claim 1, 14 and 17) are independent. Based on the above Amendments and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Claim Amendments

2. Support for the above amendments to independent claims 1, 14 and 17 may be found in Applicants' specification on page 8, lines 3-9, and in FIG. 4, as well as elsewhere throughout the originally filed specification, drawings and claims. Support for the amendments to dependent claims 2, 3, 4, 10, 11, 12, 18 and 19 may be found in Applicants' specification on page 8, lines 1-27, FIGS. 3 and 4 in originally filed claims 2, 3, 4, 10, 11, 12, 18 and 19, as well as elsewhere throughout the originally filed specification, drawings and claims. Support for new claims 21-26 may be found in the Applicants' specification on page 8, lines 3-9, and in FIG. 4, as well as elsewhere throughout the originally filed specification, drawings and claims.

Art of Record

3. Applicants acknowledge receipt of form PTO-892 identifying additional references made of record by the Examiner.

Claim Rejections

4. Independent claims 1, 14 and 17 and dependent claims 2-4, 9-13, 16 and 18-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable by U.S. Patent No. 6,901,442 to Schwaller *et al.* (hereinafter, "Schwaller") in view of U.S. Patent No. 5,889,520 to Glaser (hereinafter, "Glaser"). Based on the above Amendments and following Remarks,

Applicants respectfully request that these rejections be reconsidered, and that they be withdrawn.

5. Independent claim 1, as amended, recites *inter alia*, “creating for display on a single display page a visual representation of said network device information, said visual representation comprising a first segment which is visually distinguishable from a second network segment by indicia, wherein said visual representation of the first and second network segments comprises ***a plurality of icons representing the plurality of network devices which satisfy said selected filter criteria***, and wherein ***said visual representation... illustrates a first connection between the first and second network segments***.” (See, Applicants’ claim 1, above; emphasis added.) Independent claims 14 and 17, as amended, also include similar claim features.

6. In rejecting claims 1, 14 and 17, the Examiner alleges that Schwaller teaches all elements but “fails to teach a visual representation of network segments.” (See, Office Action, page 3.) The Examiner cites Glaser for supplying the admittedly deficient teaching of Schwaller. In combining the references, the only support put forth by the Examiner that it “would have obvious at the time of the invention to one of ordinary skill in the art to modify the method of providing information related to networks as taught by Schwaller to include visually distinguishable network segments as taught by Glaser is that such a combination would “provide a simplified view to optimize network resources.” (See, Office Action, page 3.)

7. The Examiner has failed to establish a *prima facie* case of obviousness by failing to provide references that teach, either alone or in combination, all the elements and by failing to provide substantial evidence for the assertion that one of ordinary skill, without having the benefit of Applicants’ novel teachings before them, would have been motivated to combine the teachings of the references. The rejections of independent claims 1, 14 and 17 are therefore improper and should be withdrawn.

8. First, neither Schwaller nor Glaser, either alone or in combination, teaches every element of independent claims 1, 14 and 17 including (1) a visual representation of the first and second network segments comprises a plurality of icons representing network devices which satisfy the selected filter criteria and (2) the visual representation illustrates a first connection between the first and second network segments. With regard to the first

missing element, the Examiner admits that Schwaller fails to teach a visual representation of network segments. Applicants agree that the table format used to display data in Schwaller shown in FIG. 9A is not a visual representation of a first and second network segment. Glaser, contrary to the suggestions of the Examiner, also fails to teach a visual representation of a first and second network segment. The Examiner cited FIG. 6 of Glaser, which shows a first portion 602 representing HTML sites, a second portion 604 representing tier-2 applications and a third portion 606 representing tier-3 applications. (See, Glaser, Col. 7, lines 28-32.) It is clear from FIG. 6 and from this description of Glaser that FIG. 6 is not a visual representation of a first and second network segment that comprises *a plurality of icons representing network devices which satisfy the selected filter criteria* as claimed. Glaser does not display any icons that represent network devices which satisfy the selected filter criteria as claimed. Therefore, Glaser is not capable of remedying the deficiencies of Schwaller.

9. Likewise, Schwaller is admittedly deficient in displaying a visual representation of a first and second network segment, and thus, cannot show that the first and second network segments comprising a plurality of icons representing network devices which satisfy the selected filter criteria as claimed. Thus, the Examiner has not established a *prima facie* case of obviousness by finding every element of claims 1, 14 and 17 in the cited art and therefore the rejection should be withdrawn as improper and claims 1, 14 and 17 allowed to issue.

10. The Examiner also cites the following portion of Glaser, which states:

Load analysis breaks down the major components and links in the network into segments to identify bottlenecks and problems with the different segments and data paths. Load analysis can also be used for load balancing and trying out various means of application programming and the data access methods thereof. The performance information is obtained from the network manager, database manager(s), and/or web manager(s). Next, statistic data is derived from the performance information. *This statistic data is then visually displayed* in a designated portion of the topology display window 600. (See, Glaser, col. 8, lns. 55-65; emphasis added.)

However, this portion of Glaser also fails to teach every element of claims 1, 14 and 17. Glaser does not teach displaying network segments, but instead teaches visually displaying statistic data which is derived from the performance information. Load analysis breaks the

major network components into segments, but never displays those segments in a visual representation in Glaser. The teachings of Glaser cannot remedy the deficiencies of Schwaller because there is no visual representation of network segments. Thus, the Examiner has not established a *prima facie* case of obviousness by finding every element of claims 1, 14 and 17 in the cited art and therefore the rejection should be withdrawn as improper and claims 1, 14 and 17 allowed to issue.

11. With regard to the second missing element, neither Schwaller nor Glaser teaches a visual representation that illustrates a first connection between the first and second network segments. As stated previously, the Examiner admitted that Schwaller does not teach a visual representation of network segments and thus cannot teach a visual representation that illustrates a first connection between the first and second network segments. Likewise, Glaser does not teach a visual representation that illustrates a first connection between the first and second network segments. Instead, FIG. 6 of Glaser teaches portions 602, 604 and 606 in which “the data paths between the application files and between the different tiers are depicted by lines 612 and lines 618, respectively,” and “data paths between the resource allocation program and the servers are depicted by lines 619.” (*See*, Glaser, Col. 7, lines 61-64.) Lines 612, 618 and 619 represent data paths and are not an illustration of a first connection between the first and second network segments as claimed. The lack of the first connection in Glaser further emphasizes the previous argument that portions 602, 604, and 606 are not network segments. Thus, the Examiner has not established a *prima facie* case of obviousness by finding every element of claims 1, 14 and 17 in the cited art and therefore the rejection should be withdrawn as improper and claims 1, 14 and 17 allowed to issue.

12. Furthermore, the Examiner has not provided proper support for the assertion that one of ordinary skill, without having the benefit of Applicants’ novel teachings before them, would have been motivated to combine the teachings of the two references. Applicants respectfully argue that the Examiner failed to articulate a suggestion or motivation to combine the references and thus failed to establish a *prima facie* case of obviousness as required by law and under MPEP Sections 706.02(j) & 2143. (*See, In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998) (“To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness.”)).

Sufficient evidential support for the motivation to combine must be shown in the prior art suggesting a combination of references. (*See, In re Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002); *see also, In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000) (“[P]articular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.”)).

13. The only statement regarding the motivation to combine Schwaller with Glaser to reject claims 1, 14 and 17, is that it “would have obvious at the time of the invention to one of ordinary skill in the art to create the method of providing information related to networks as taught by Schwaller to include visually distinguishable network segments as taught by Glaser in order to provide a simplified view to optimize network resources.” (*See, Office Action*, page 3). The Examiner has not provided objective evidence to support the motivation to combine, but rather improperly combined elements from two references using motivation based on a misleading objective that was picked and choose from one of the references. It is well established that “it is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.” (*See, In re Wesslau*, 353 F.2d 238, 241 (CCPA 1965)). The actual text of Glaser that the Examiner cites for the statement “to provide a simplified view to optimize network resources” exemplifies improper picking and choosing. Glaser states that “there is a need in the art simplified development for RDBMS software across an Internet or Intranet, and especially via Web-based networks” and that “there is a need for a simplified view of the network connectivity, activities, and performance.” (*See, Glaser*, Col. 2, lines 13-16). Both of these objectives of Glaser are “used for load balancing, and resource allocation to improve the performance of the network and ‘fine tune’ the applications under development.” (*See, Glaser*, Col. 2, lines 16-19). Glaser fairly suggests providing a simplified view of network resources to optimize the development of RDBMS software. From the actual text of Glaser it is clear that the Examiner picked and choose only that portion of Glaser to support the Examiner’s given position to exclusion of other parts necessary to the full appreciation of what Glaser fairly suggests. Schwaller is directed to a tool for analyzing and troubleshooting networks based on network performance. (*See, Schwaller*, Col. 3,

lines 21-24). Schwaller does not seek to provide a simplified view of network resources to optimize the development of RDBMS software, as suggested by Glaser. Even more importantly, Schwaller does not provide a simplified view of network resources, but rather provides tools for troubleshooting networks. Based on what Glaser fairly suggests, there is no motivation to combine Glaser with Schwaller and thus the Examiner has failed to establish a *prima facie* case of obviousness by failing to provide objective evidence of a motivation to combine. Therefore, the rejection of claims 1, 14 and 17 should be withdrawn.

14. The Examiner has not objectively provided a proper motivation to combine Schwaller with Glaser, and thus based on Federal Circuit precedent its can be reasonable assumed the Examiner selected the references with the assistance of hindsight. (*See, In re Rouffet*, 149 F.3d 1350, 1358 (Fed. Cir. 1998)). The Federal Circuit has repeated stated that the use of hindsight must be guarded against by having the Examiner provide sufficient evidence to support the motivation. (*See, e.g., In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1998); *In re Dembiczak*, 175 F.3d 994 (Fed. Cir. 1999)). Therefore, without proper objective evidence the Examiner fails to establish a proper *prima facie* case of obviousness to combine Schwaller with Glaser, and thus the rejection of claims 1, 14 and 17 should be withdrawn.

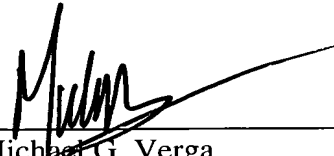
Dependent Claims

15. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter which makes them *a fortiori* independently patentable over the art of record. Accordingly, Applicant respectfully requests that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Conclusion

16. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,



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